

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, California 95814



May 11, 2001

TO: REGIONAL MANAGERS
DISTRICT OFFICE MANAGERS
COUNTY LICENSING SUPERVISORS

FROM: *Original signed by Carol Jacobi*
CAROLE JACOBI, Chief
Policy Development Bureau

SUBJECT: **CLARIFICATION REGARDING THE USE OF MESH FENCING
AROUND SWIMMING POOLS IN CHILDREN'S RESIDENTIAL
FACILITIES, FAMILY DAY CARE FACILITIES AND CHILD CARE
CENTERS**

This memo supercedes the May 19, 1999, policy memo regarding the use of mesh fencing for children's residential facilities and child care facilities. The Policy Development Bureau has received several requests for clarification on the use of mesh fencing, in particular the language regarding fence "permanency."

Community Care Licensing regulations Sections 102417(g)(5), 101238(e), and 80087(f) state, in whole or in part, that:

"All licensees shall ensure the inaccessibility of pools (in-ground and above-ground), fixed-in-place wading pools, hot tubs, spas, fish ponds and similar bodies of water through a pool cover or by surrounding the pool with a fence."

The intent of this regulation is to ensure that pools and other bodies of water are inaccessible. Our concern is that the mesh fencing used meet the regulatory requirement of preventing access to the pool.

Some licensees have sought to install mesh swimming pool fencing that can be removed during those times when licensed care is not being provided, such as evenings or on weekends. The fencing would then be put back into place prior to providing care. Since residential facilities provide 24-hour care, a request may be reasonably considered only for nonresidential facilities such as licensed child care.

The May 19, 1999, memo required fences to be permanently in place in order to ensure inaccessibility to the pool. Subsequently, Department staff inspected "removable" mesh fencing from one fence company that claimed their fencing, though removable, provided the required degree of inaccessibility to the swimming pool when the fence was properly installed, maintained and remained in place. During this recent inspection, Department

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staff determined that this particular mesh fencing did indeed meet the requirement of making the swimming pool inaccessible.

Important considerations in this determination were that the mesh fencing be designed and installed so children could not remove any portion of the fence; the fencing be of sufficient strength to withstand the impact of children's toys such as tricycles, wagons etc.; and that the fencing would not readily bend upon impact.

Any fence used to prevent access to a swimming pool must be inspected and approved by licensing staff as meeting regulatory requirements prior to its use. Approved mesh fences that meet regulatory standards for swimming pool fencing may be used provided that the licensee agrees on the LIC 809 Facility Evaluation Report that the mesh fence will remain in place whenever licensed care is provided, and so long as the mesh fence makes the swimming pool inaccessible to children as determined by licensing staff. This is consistent with the current policy on swimming pool covers.

This policy supercedes the policy contained in the May 19, 1999, memo that required mesh fencing to be permanently affixed. The Department will be incorporating this policy interpretation into the Evaluator Manual in the near future. If you have any questions regarding this policy please contact Sharon Whitted at (916) 327-4104.